

PROB 12B
(7/93)

Report Date: April 4, 2006

United States District Court
for the

Eastern District of Washington

JAMES R. LARSEN, CLERK

DEPUTY

RICHLAND, WASHINGTON

APR 05 2006

Request for Modifying the Conditions or Term of Supervision

with Consent of the Offender

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Johnny Andres Asuncion III Case Number: 2:03CR02160-001

Name of Sentencing Judicial Officer: The Honorable Edward F. Shea

Date of Original Sentence: 4/13/2004 Type of Supervision: Supervised Release

Original Offense: Felon in Possession of a Firearm,
18 U.S.C. § 922(g)(1) Date Supervision Commenced: 12/9/2005

Original Sentence: Prison - 27 Months; TSR - 36
Months Date Supervision Expires: 12/8/2008

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 17 You shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.
- 18 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.
- 19 You shall not enter into or remain in any establishment where alcohol is the primary item of sale.
- 20 You shall complete 100 hours of community service work at the rate of not less than 20 hours per month, at a not-for-profit site approved in advance by the supervising probation officer. The hours are to be completed in full no later than January 1, 2007.

CAUSE

The offender was released from custody on December 9, 2005, to begin a 3-year term of supervision. He is also concurrently on state supervision for a possession of methamphetamine offense. On January 21, 2006, after leaving a bar, the offender was shot in the upper chest, by an unknown assailant. The bullet exited the offender's upper shoulder and was not life threatening. The offender reported to police that he had consumed several pitchers of beer in a bar just prior to the shooting. The offender's use of alcohol is in violation of his conditions. The circumstances

Prob 12B

Re: Asuncion, Johnny Andres**April 4, 2006****Page 2**

of the shooting and the offender's version of the events surrounding the shooting are suspect and still under investigation. Subsequently, the offender submitted a urine sample on February 23, 2006, which tested positive for methamphetamine. As a result of the positive test and failure to report, the offender was taken into custody by his state supervision officer and served a 15-day term of confinement. He was released from custody on his state violation on March 8, 2006. The offender is in substance abuse treatment through the Washington State Department of Corrections and continues to participate in their program.

The indicated modifications concerning drug and alcohol testing are requested to be in compliance with the recent 9th Circuit case law. As it appears, the offender was frequenting bars and taverns, a modification to prohibit this activity is also requested. The offender is currently unemployed, and the community service modification is in part viewed as a sanction for his noncompliant behavior. It is respectfully requested the Court take judicial notice of the alleged violations and take no further action at this time, other than ordering the requested modifications. The offender has signed a waiver agreeing to the modification of the conditions of his supervised release, which is enclosed for the Court's review.

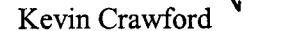
The offender has a long and serious criminal history, he has been warned that any additional violations of his conditions of supervised release will result in a return before the Court for revocation proceedings.



Respectfully submitted,



by



Kevin Crawford

U.S. Probation Officer

Date: April 4, 2006

THE COURT ORDERS

- No Action
- The Extension of Supervision as Noted Above
- The Modification of Conditions as Noted Above
- Other



Signature of Judicial Officer



4/05/06

Date

United States District Court

Eastern District of Washington

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows:

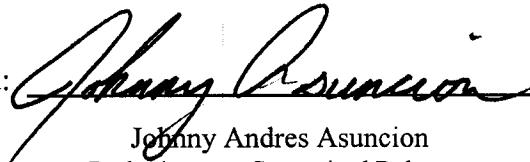
- 17 You shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.
- 18 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.
- 19 You shall not enter into or remain in any establishment where alcohol is the primary item of sale.
- 20 You shall complete 100 hours of community service work at the rate of not less than 20 hours per month, at a not-for-profit site approved in advance by the supervising probation officer. The hours are to be completed in full no later than January 1, 2007.

Witness:



Kevin Crawford
U.S. Probation Officer

Signed:



Johnny Andres Asuncion
Probationer or Supervised Releasee

4-4-06
Date